

REMARKS

The Examiner's communication dated March 5, 2009 has been received and carefully considered. In conformance with the applicable statutory requirements, this paper constitutes a complete reply and/or a bona fide attempt to advance the application to allowance. Specifically, claims 1, 4, 5, 7 and 22 have been amended and claims 2 and 3 have been cancelled. In addition, detailed arguments in support of patentability are presented. Reexamination and/or reconsideration of the application as amended are respectfully requested.

Summary of the Office Action

Claims 1-5, 7-16 and 18-25 stand rejected under 35 U.S.C. § 112, second paragraph.

Claims 1-5, 8-16, 18, 19 and 21-25 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Kobow et al. (DE 19708741A1) in view of Frantz (U.S. Patent No. 2,705,020).

Claims 7 and 20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Kobow et al. and Frantz and further in view of Dettmers (DE 10047073 C1).

35 U.S.C. § 112, Second Paragraph

As indicated in the previous section, the Examiner rejected claims 1-5, 7-17 and 18-25 under 35 U.S.C. § 112, second paragraph. The only particular objection the Examiner made was with respect to claim 22, particularly lines 22 and 23 thereof, concerning the recitation "second positions". Claim 22 is amended herein to specify that the first radial aperture is closed by the control piston when the control piston is in an intermediate position between the initial position and the end position to restrict fluid communication through the first radial aperture. Accordingly, it is respectfully requested that the § 112 rejection lodged against claim 22 and its dependent claims (i.e., 23-25) be withdrawn.

No details were provided as to why claims 1-5 and 7-16 were rejected under 35 U.S.C. § 112, second paragraph. This appears to have been an error by the Examiner. Accordingly, it is respectfully requested that the record be made clear to indicate that there are no rejections under 35 U.S.C. § 112, second paragraph, against claims 1-5 and 7-16.

**The Claims Distinguish Patentably
Over the Reference(s) of Record**

Claim 1 has been amended to incorporate the limitations previously presented in dependent claims 2 and 3. In particular, claim 1 has been amended to specify that the valve piston is guided in a valve piston sliding guide with the formation of a throttling clearance (previously provided in dependent claim 2) and the second radial aperture, as a function of the location of the valve piston, lies opposite the valve piston sliding guide or lies on the high pressure side of the valve piston sliding guide (previously presented in dependent claim 3). It is respectfully submitted that the Examiner's combination of references applied against previously presented claims 1, 2 and 3 fails to disclose the hydraulically switchable distribution valve of amended claim 1.

More particularly, the Examiner concedes that his primary reference Kobow et al. fails to disclose a second radial aperture, including failing to disclose a second radial aperture that is displaced toward the end face relative to the recited first radial aperture. The Examiner also concedes that Kobow et al. fails to disclose the second radial aperture, as a function of location on the valve piston, laying opposite to the valve piston sliding guide or laying on the high pressure side of the valve piston sliding guide. Attempting to correct this deficiency, the Examiner relies on Frantz for its alleged teaching of the use of a second aperture 16 in the valve piston. Per the Examiner, it would have been obvious to one of ordinary skill in the art to employ a second radial apertures as taught by Frantz into the valve of Kobow.

Other than pure hindsight interjection, however, the Examiner has provided no reason as to why this combination teaches or fairly suggests the provision of a second radial aperture that, as a function of a location of the recited valve piston, lies opposite the valve piston sliding guide or lies on the high pressure side of the valve piston sliding

guide. In fact, there is no disclosure in Frantz of a valve piston sliding guide such that there can be no disclosure of the second radial aperture laying opposite to the valve piston sliding guide or laying on the high pressure side of the valve piston sliding guide as a function of a location of the valve piston.

Accordingly, for at least this reason, it is respectfully submitted that claim 1 is in condition for allowance.

Dependent **claim 7** has been placed in independent form. Concerning previously presented dependent claim 7, the Examiner concedes that the combination of Kobow et al. and Frantz fail to disclose the control piston at its end face facing the control pressure port comprising an inward-facing flange, which in the intermediate position of the control piston comes into contact with a shoulder section of the valve piston. Attempting to correct this deficiency, the Examiner relies on Dettmers and makes a triple combination rejection against previously presented dependent claim 7, which is now in independent form. The Examiner argues that Dettmers discloses a similar valve type that allegedly includes the recited flange. In particular, it appears that the Examiner is indicating that the shoulder portion of the Dettmers piston 18 (i.e., the portion below lead line 32) is the inward-facing flange recited in dependent claim 7. Applicant respectfully submits that a shoulder is not a flange. Comparing FIG. 1 of the subject application to FIG. 1 of the Dettmers application will reveal to the Examiner that dependent claim 7 relates to a flange, which is a particular structural detail that is not met by the teaching of a shoulder abutting another shoulder in Dettmers.

Accordingly, for at least the foregoing reasons, it is respectfully submitted that claim 7 is in condition for allowance.

Claim 22 has been amended to incorporate the limitation presented in dependent claim 7. In particular, claim 22 now calls for the recited control piston at its end face facing the control pressure port to comprise an inward-facing flange, which in the intermediate position of the control piston comes into contact with a shoulder section of the valve piston. As already discussed herein, Applicant respectfully challenges the triple combination of references lodged against this limitation in the Office Action. In particular, Applicant challenges that the triple combination of references fails to disclose an inward-facing flange as recited in claim 22. Accordingly, for at least this reason,

Applicant respectfully submits that claim 22 and dependent claims 23-25 are in condition for allowance.

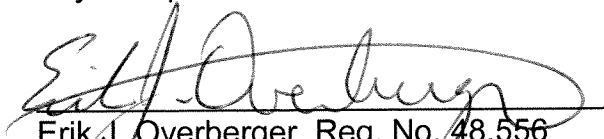
CONCLUSION

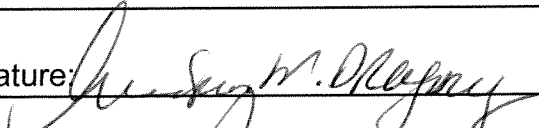
All formal and informal matters having been addressed, it is respectfully submitted that this application is in condition for allowance. It is believed that the claim changes and/or arguments supporting patentability clearly place the application in condition for allowance, defining over any fair teaching attributable to the references of record. Alternatively, if the Examiner is of the view that the application is not in clear condition for allowance, it is requested that the Examiner telephone the undersigned for purposes of conducting a telephone interview to resolve any outstanding differences. Accordingly, an early notice of allowance is earnestly solicited.

Respectfully submitted,

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May 5, 2009
Date


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